

March 13, 2015

The Honorable Orrin G. Hatch, Chairman
Senate Committee on Finance
219 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Paul D. Ryan, Chairman
House Committee on Ways & Means
1102 Longworth House Office Building
Washington, D.C. 20515

The Honorable Ronald L. Wyden
Ranking Member
Senate Committee on Finance
219 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Sander M. Levin
Ranking Member
House Committee on Ways & Means
1236 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Hatch, Ranking Member Wyden, Chairman Ryan, and Ranking Member Levin:

As you search for a path forward on tax reform, we strongly urge you to retain current law regarding like-kind exchanges under section 1031 of the Internal Revenue Code (“Code”). Like-kind exchanges are integral to the efficient operation and ongoing vitality of thousands of American businesses, which in turn strengthen the U.S. economy and create jobs. Like-kind exchanges facilitate the ability of taxpayers to exchange their property for more productive like-kind property, to diversify or consolidate holdings, and to transition to meet changing business needs. Specifically, section 1031 provides that firms and investors do not immediately recognize a gain or loss when they exchange assets for “like-kind” property that will be used in their trade or business. They do immediately recognize gain, however, to the extent that cash or other “boot” is received. Importantly, like-kind exchanges are similar to other non-recognition and tax deferral provisions in the Code because they result in no change to the economic position of the taxpayer.

Since 1921, like-kind exchanges have encouraged capital investment in the United States by allowing funds to be reinvested in the enterprise, which is the very reason section 1031 was enacted in the first place. These investments not only benefit the companies making the like-kind exchanges, but also suppliers, manufacturers, and others facilitating them. Like-kind exchanges ensure both the best use of real estate and a used personal property market that significantly benefits start-ups and small businesses. Eliminating them or restricting their use would have a contraction effect on our economy by increasing the cost of capital.

Companies in a wide range of industries, business structures, and sizes rely on the like-kind exchange provision of the Code. These businesses—which include construction, industrial, and farm equipment; vehicle manufacturers and lessors; and real estate—provide essential products and services to U.S. consumers and are an integral part of our economy. Without like-kind exchanges, businesses and entrepreneurs would have less incentive and ability to make real estate and capital investments since the immediate recognition of a gain upon the disposition of property being replaced would impair cash flow and could make it uneconomic to replace that asset. As a result, requiring the recognition of gain on like-kind exchanges would hamper the ability of businesses to be competitive in our global marketplace. The reduced investment in real

estate and capital would also have significant upstream and downstream impacts in industries as diverse as real estate, construction, tourism, and equipment supply.

In summary, there is strong economic rationale for the like-kind exchange provision's nearly 100-year existence in the Code. Limitation or repeal of section 1031 would deter and, in many cases, prohibit continued and new real estate and capital investment. Because of the extent of these adverse effects on the U.S. economy, they would likely not be offset by a lower marginal corporate tax rate.

Thank you for your consideration of this important matter.

Sincerely,

ACCA - The Indoor Environment & Energy
Efficiency Association
American Car Rental Association
American Farm Bureau Federation
American Rental Association
American Truck Dealers
Associated Equipment Distributors
Associated General Contractors of America
Avis Budget Group
CCIM Institute
Equipment Leasing and Finance Association
(ELFA)
Federation of Exchange Accommodators
Fidelity National Financial, Inc.
Idaho's Dairymen's Association
Independent Equipment Dealers
Associations (IEDA)
Institute of Real Estate Management
International Council Of Shopping Centers
Iowa Soybean Association
National All-Jersey
National Alliance of Forest Owners

National Apartment Association
National Association of REALTORS®
National Association of Real Estate
Investment Trusts
National Automobile Dealers Association
National Cattlemen's Beef Association
National Multifamily Housing Council
National Ready Mixed Concrete Association
National Stone, Sand, and Gravel
Association
National Utility Contractors Association
North American Equipment Dealers
Association
REALTORS® Land Institute
Society of Industrial and Office
REALTORS®
South East Dairy Farmers Association
The Hertz Corporation
The Real Estate Roundtable
Truck Renting and Leasing Association
Western United Dairymen

cc:

The Honorable John Thune, Co-Chair, Business Income Tax Working Group
The Honorable Benjamin Cardin, Co-Chair, Business Income Tax Working Group
The Honorable Pat Roberts, Member, Business Income Tax Working Group
The Honorable Debbie Stabenow, Member, Business Income Tax Working Group
The Honorable Richard Burr, Member, Business Income Tax Working Group
The Honorable Tom Carper, Member, Business Income Tax Working Group
The Honorable Johnny Isakson, Member, Business Income Tax Working Group
The Honorable Bob Casey, Member, Business Income Tax Working Group

The Honorable Rob Portman, Member, Business Income Tax Working Group
The Honorable Mark Warner, Member, Business Income Tax Working Group
The Honorable Pat Toomey, Member, Business Income Tax Working Group
The Honorable Robert Menendez, Member, Business Income Tax Working Group
The Honorable Dan Coats, Member, Business Income Tax Working Group
The Honorable Bill Nelson, Member, Business Income Tax Working Group